

Senate Bill No. 39

Passed the Senate July 16, 2009

Secretary of the Senate

Passed the Assembly July 1, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1714.5 of the Civil Code, relating to personal liability, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 39, Benoit. Personal liability immunity: disaster service workers.

Existing law provides that no disaster worker who is performing disaster services during a state of war emergency, a state of emergency, or a local emergency shall be liable for civil damages on account of personal injury to or death of any person or property, as provided.

This bill would provide that disaster service workers shall not be liable when acting within the scope of their responsibilities under the authority of the governmental emergency organization, as provided. This bill would provide that these provisions apply exclusively to any legal action filed on or after the effective date of this bill.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 1714.5 of the Civil Code is amended to read:

1714.5. (a) There shall be no liability on the part of one, including the State of California, county, city and county, city or any other political subdivision of the State of California, who owns or maintains any building or premises which have been designated as a shelter from destructive operations or attacks by enemies of the United States by any disaster council or any public office, body, or officer of this state or of the United States, or which have been designated or are used as mass care centers, first aid stations, temporary hospital annexes, or as other necessary facilities for mitigating the effects of a natural, manmade, or war-caused emergency, for any injuries arising out of the use thereof for such

purposes sustained by any person while in or upon said building or premises as a result of the condition of said building or premises or as a result of any act or omission, or in any way arising from the designation of such premises as a shelter, or the designation or use thereof as a mass care center, first aid station, temporary hospital annex, or other necessary facility for emergency purposes, except a willful act, of such owner or occupant or his or her servants, agents or employees when such person has entered or gone upon or into said building or premises for the purpose of seeking refuge, treatment, care, or assistance therein during destructive operations or attacks by enemies of the United States or during tests ordered by lawful authority or during a natural or manmade emergency.

(b) Notwithstanding any other provision of law, no disaster service worker who is performing disaster services during a state of war emergency, a state of emergency, or a local emergency, as such emergencies are defined in Section 8558 of the Government Code, shall be liable for civil damages on account of personal injury to or death of any person or damage to property resulting from any act or omission while performing disaster services anywhere within any jurisdiction covered by such emergency, except one that is willful.

(c) For purposes of this subdivision, a disaster service worker shall be performing disaster services when acting within the scope of the disaster service worker's responsibilities under the authority of the governmental emergency organization.

(d) For purposes of this subdivision, "governmental emergency organization" shall mean the emergency organization of any state, city, city and county, county, district, or other local governmental agency or public agency, which is authorized pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code).

(e) Nothing in this section shall be construed to alter any existing legal duties or obligations. The amendments to this section made by the act amending this section shall apply exclusively to any legal action filed on or after the effective date of the act.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Because the state has long encouraged Californians to assist others facing danger in an emergency, and the ability to do so without fear of potential suit has been thrown into question by the recent California Supreme Court decision of *Van Horn v. Watson*, (2008) 45 Cal.4th 322, decided on December 18, 2008, this legislation clarifying the intent of the Legislature needs to go into effect immediately so as to avoid any confusion in this important area of the law.

Approved _____, 2009

Governor